

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MARCH 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 496

Introduced by Assembly Member Correa
(Coauthors: Assembly Members Daucher, Harman, Maddox,
and Negrete McLeod)
(Coauthor: Senator Soto)

February 14, 2003

An act to add and repeal Division 23.6 (commencing with Section 33807) of the Public Resources Code, relating to the Santa Ana River Conservancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as amended, Correa. Santa Ana River Conservancy.

Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.

This bill would, until January 1, 2011, establish the Santa Ana River Conservancy to acquire and direct the management of specified public lands in the Santa Ana River watershed area and would prescribe the management, powers, and duties of the conservancy. The bill would also create the Santa Ana River Conservancy Fund, but would prohibit the conservancy from implementing the funding authorization until the Legislature appropriates, from other than General Fund moneys, or a bond act approved by the voters allocates, the necessary funds.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 23.6 (commencing with Section 33807) is added to the Public Resources Code, to read:

DIVISION 23.6. SANTA ANA RIVER CONSERVANCY

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

33807. This division shall be known, and may be cited, as the Santa Ana River Conservancy Act.

33808. (a) The Santa Ana River is the largest stream system in southern California. As a unit, the watershed covers an area of about 2,700 square miles in parts of Orange, San Bernardino, and Riverside Counties. The river has been subjected to intense development and is in need of restoration, conservation, and enhancement all along its length.

(b) Given the opportunities available, the state finds and declares that the Santa Ana River ~~and its tributary, the Santiago Creek, constitute~~ *watershed constitutes* a unique and important open-space, environmental, anthropological, cultural, scientific, educational, recreational, scenic, and wildlife resource that should be held in trust to be preserved and enhanced for the enjoyment of, and appreciation by, present and future generations.

33809. For purposes of this division, the following terms have the following meanings:

(a) “Board” means the governing board of the Santa Ana River Conservancy.

(b) “Conservancy” means the Santa Ana River Conservancy.

(c) “Nonprofit organization” means a nonprofit public benefit corporation formed pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code), qualified to do business in California, qualified under Section 501(c)(3) of Title 26 of the United States Code, and that has among its primary purposes the preservation, protection, or enhancement of land or water resources in their

1 *natural, scenic, historical, agricultural, forested, or open-space*
2 *condition or use.*

3 (d) “Territory” means the entire length of the Santa Ana River
4 and the watershed areas that are located within the Counties of
5 Orange, Riverside, and San Bernardino.

6
7 CHAPTER 2. THE SANTA ANA RIVER CONSERVANCY
8

9 33815. There is in the Resources Agency, the Santa Ana River
10 Conservancy, which is created as a state agency for the following
11 purposes:

12 (a) To acquire and manage public lands within the Santa Ana
13 River watershed, and to provide recreational opportunities, open
14 space, *trails*, wildlife habitat and species restoration and
15 protection, wetland protection and restoration, protection and
16 maintenance of the quality of the waters in the Santa Ana River for
17 all beneficial uses, lands for educational uses within the area, and
18 natural floodwater conveyance.

19 (b) To provide for the public’s enjoyment, and to enhance the
20 recreational and educational experience on public lands in the
21 territory in a manner consistent with the protection of land and
22 natural resources, and economic resources in the area.

23 33820. The conservancy shall do all of the following:

24 (a) Establish policies and priorities for the conservancy
25 regarding the Santa Ana River and its watershed, and conduct
26 necessary planning activities, in accordance with the purposes set
27 forth in Section 33815.

28 (b) Give priority to river-related projects that create expanded
29 opportunities for recreation, greening, aesthetic improvement, and
30 wildlife habitat along the corridor of the river and in parts of the
31 river channel that can be improved for the above purposes without
32 infringing on water quality, water supply, and necessary flood
33 control.

34 (c) Approve conservancy-funded projects that advance the
35 purposes set forth in Section 33815.

36 (d) Prepare a Santa Ana River Parkway and Open Space Plan.
37 The plan shall accomplish, at minimum, all of the following:

38 (1) Determine the policies and priorities for conserving the
39 Santa Ana River and its watershed in accordance with the purposes
40 of the conservancy as set forth in Section 33815.

(2) Identify underused, existing public open spaces and recommend ways to provide better public use and enjoyment in those areas.

(3) Identify and prioritize additional low-impact recreational and open-space needs, including additional or upgraded facilities and parks that may be necessary or desirable.

33825. The board shall consist of 13 voting members and nine nonvoting members appointed as follows:

(a) The 13 voting members of the board shall consist of all of the following:

(1) Secretary of the Resources Agency, or his or her designee.

(2) Director of Finance, or his or her designee.

(3) One public member *who is a resident of the watershed* appointed by the Governor, ~~who resides within the watershed and has expertise in economic development, agriculture or conservation, wildlife, and natural resources.~~ *from a list submitted by local, state, and national environmental organizations that operate within the territory of the conservancy and that have participated in planning for river restoration, river preservation, open space, or water quality.*

(4) Three public members appointed by the Governor, who reside within the watershed and are selected from a list submitted by all of the following:

(A) ~~Orange County Council of Governments~~ *League of California Cities, Orange County Division.*

(B) Western Riverside Council of Governments.

(C) San Bernardino Association of Governments.

(5) One member of the Board of Supervisors of Riverside County; appointed by the majority of the members of that board, *or the general manager of the Riverside County Regional Parks and Open-Space District.*

(6) One member of the Board of Supervisors of San Bernardino County; appointed by the majority of the members of that board, *or the chief of the San Bernardino County Regional Parks Division.*

(7) One member of the Board of Supervisors of Orange County; appointed by the majority of the members of that board, *or the director of the Orange County Public Facilities and Resources Department.*

(8) One member of the Santa Ana Watershed Project Authority, appointed by the majority of the members of that authority.

(9) One public member appointed by the Senate Committee on Rules, ~~who resides within the watershed and has expertise in conservation, wildlife, and natural resources.~~ *Rules.*

(10) One public member appointed by the Speaker of the Assembly, ~~who resides within the watershed and has expertise in conservation, wildlife, and natural resources.~~ *Assembly.*

(11) One representative designated by the Governing Councils of the San Manuel Band of Mission Indians and the Soboba Band of Luiseno Indians.

(b) The nine ex officio, nonvoting members of the board shall consist of all of the following officers or an employee of each agency designated annually by that officer to represent the office or agency:

(1) Director of the *California* Department of Parks and Recreation.

(2) District Engineer of the United States Army Corps of Engineers.

(3) Secretary of the California Environmental Protection Agency.

~~(4) Regional Forester, Pacific Southwest Region of the United States Forest Service.~~

~~(5) General Manager, Eastern Municipal Water District.~~

~~(6) General Manager, Inland Empire Utilities Agency.~~

~~(7) General Manager, Orange County Water District.~~

~~(8) General Manager, San Bernardino Valley Municipal Water District.~~

~~(9) General Manager, Western Municipal Water District.~~

(4) *Forest Supervisor, San Bernardino National Forest, United States Forest Service.*

(5) *Director, California Department of Fish and Game.*

(6) *Executive Director, California Wildlife Conservation Board.*

(7) *Manager, Orange County Division of Public Works and Flood Control.*

(8) *Director, San Bernardino County Transportation and Flood Control.*

(9) *General Manager-Chief Engineer, Riverside County Flood Control and Water Conservation District.*

1 33826. (a) The term of each voting member of the board shall
2 be two years, or until the member's successor is appointed,
3 whichever is longer. A vacancy shall be filled within 60 days of its
4 occurrence by the appointing authority.

5 (b) Notwithstanding subdivision (a), a person may not continue
6 as a member of the board if he or she ceases to hold the office that
7 qualifies him or her to be appointed as a member of the board. The
8 membership on the board held by the person shall terminate if the
9 person ceases to hold the qualifying office or membership.

10 (c) The voting members of the board shall elect a chairperson,
11 vice chairperson, and other officers, as necessary, from among the
12 board members. The board shall determine the terms of those
13 offices.

14 (d) A member of the board who is not a full-time public
15 employee shall be compensated at a rate not to exceed one hundred
16 dollars (\$100) per regular meeting, not to exceed 12 regular
17 meetings per year, and shall be reimbursed the actual and
18 necessary expenses incurred in the performance of his or her
19 duties. A member may waive compensation.

20 (e) The conservancy may employ an executive officer and
21 other necessary staff to perform functions that cannot be provided
22 by the existing personnel, by others on a contract basis, or by
23 volunteers, and may enter into a contract for services requiring
24 knowledge, experience, and ability not possessed by the
25 conservancy staff. The board shall approve those contracts.

26 (f) (1) *The board shall create an advisory group and may*
27 *create ad hoc panels. The board shall determine the size and*
28 *composition of membership, candidate qualifications, and the*
29 *selection process for an advisory group or ad hoc panels.*

30 (2) *Members of the advisory group or ad hoc panels may offer*
31 *advice, expertise, support, or service to the conservancy, without*
32 *compensation.*

33 (3) *The board or executive staff of the conservancy may*
34 *establish operational guidelines for the advisory group or ad hoc*
35 *panels.*

36 (4) *A donation of funds secured through activities of the*
37 *advisory group or ad hoc panels shall be deposited in the Santa*
38 *Ana River Conservancy Fund.*

(5) *All reports, statements, or advice issued by the advisory group or ad hoc panels may be received and filed, implemented, or rejected by the board.*

33830. (a) A quorum shall consist of a majority of the voting members of the board. All meetings of the board shall be held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(b) An action of the board affecting a matter shall be taken by a majority vote of the membership of the board, a quorum being present.

(c) The governing board shall adopt its own rules and procedures necessary to conduct its business.

CHAPTER 3. POWERS AND DUTIES

33840. The conservancy may manage, operate, administer, and maintain the lands and facilities it acquires in accordance with the purposes set forth in Section 33815. The conservancy may adopt regulations governing public use of conservancy lands and facilities and may provide for the enforcement of those regulations.

33841. (a) The conservancy may acquire real property or an interest in real property pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code) within the conservancy's territory from willing sellers and at fair market value, upon a finding that the acquisition is consistent with the purposes of the conservancy as set forth in Section 33815. The conservancy may acquire the property itself or may coordinate the acquisition through other public agencies *or nonprofit organizations*, that have the authority to acquire property and that have available funding or land to exchange. The conservancy may hold a remainder interest in property in those instances in which an owner desires to sell the property and retain a life estate, and may create and administer a mitigation land bank and arrange land exchanges, consistent with the purposes set forth in Section 33815. The overall objective of the land acquisition program shall be to assist in accomplishing land transactions that are mutually beneficial to the landowner and the conservancy, and that meet the conservancy's purposes.

1 Neither the conservancy nor the State Public Works Board may
2 exercise the power of eminent domain ~~pursuant to this division. to~~
3 *acquire real property or an interest in real property for the*
4 *purposes of this division.*

5 (b) To the extent not in conflict with another law, the
6 conservancy may exercise the right of first refusal for surplus
7 public agency property located within its territory for the purposes
8 of the conservancy, as set forth in Section 33815, subject to the
9 conditions and provisions of the adopted Santa Ana River Parkway
10 and Open Space Plan, and shall conform to all relevant general and
11 specific plans and zoning regulations of local agencies within the
12 territory of the conservancy.

13 (c) Prior to entering into an agreement to acquire an interest in
14 real property, or to lease, rent, sell, exchange, or transfer real
15 property or an interest therein or an option acquired under this
16 division, within the territory of the conservancy for open space or
17 conservation purposes, the conservancy shall provide 30 days'
18 written notice to the legislative body of the affected local agency,
19 if that project was not included in the Santa Ana River Parkway
20 and Open Space Plan.

21 33842. (a) The conservancy shall have, and may exercise, all
22 rights and powers, expressed or implied, necessary to carry out the
23 purposes of this division, except as otherwise provided.

24 ~~(b) The conservancy may not levy a tax, exercise the power of~~
25 ~~eminent domain, or regulate land use, except on lands it owns,~~
26 ~~manages or controls.~~

27 ~~(c)~~

28 (b) *The conservancy may not levy a tax.*

29 (c) *The conservancy may not regulate land use, except on lands*
30 *it owns, manages, or controls.*

31 (d) *The conservancy does not have the power of eminent*
32 *domain.*

33 (e) The conservancy shall be subject to all laws, regulations,
34 and general and specific plans of the legislative body of the local
35 agency that has jurisdiction in the area in which the conservancy
36 proposes to take action.

37 33843. The conservancy may do all of the following:

38 (a) Sue and be sued.

39 (b) Enter into contracts with a public agency, private entity, or
40 person necessary for the proper discharge of the conservancy's

1 duties, and enter into a joint powers agreement with a public
2 agency, in furtherance of the purposes set forth in Section 33815.

3 (c) Lease, rent, sell, exchange, or transfer real property or
4 interest therein or an option acquired under this division to a local
5 public agency, state agency, federal agency, nonprofit
6 organization, individual, or other entity pursuant to terms and
7 conditions approved by the conservancy for management
8 purposes, in accordance with the purposes set forth in Section
9 33815.

10 (d) Initiate, negotiate, and participate in an agreement for the
11 management of land under its ownership or control by a local
12 public agency, state agency, federal agency, nonprofit
13 organization, individual, or other entity, and initiate, negotiate,
14 and participate in an agreement for the management of land under
15 the ownership or control of those entities by the conservancy, in
16 accordance with the purposes set forth in Section 33815.

17 (e) Enter into an agreement with a public agency, private entity,
18 or person necessary for the proper discharge of the conservancy's
19 duties for the purposes set forth in Section 33815.

20 (f) Recruit and coordinate volunteers and experts to conduct
21 interpretive and recreational programs and assist with construction
22 projects and the maintenance of parkway facilities. *To the extent*
23 *feasible, in carrying out the purposes of this chapter, the*
24 *conservancy shall utilize the services of the California*
25 *Conservation Corps and Community Conservation Corps, as*
26 *defined in Section 14507.5, and if the California Conservation*
27 *Corps or Community Conservation Corps are not available, any*
28 *other nonprofit organization that the conservancy determines has*
29 *relevant and demonstrated capacity and expertise.*

30 (g) Undertake, within the territory, site improvement projects,
31 regulate public access, and revegetate and rehabilitate degraded
32 areas, in consultation with any other public agency with
33 appropriate jurisdiction and expertise, in accordance with the
34 purposes set forth in Section 33815. The conservancy may also,
35 within the territory, upgrade deteriorating facilities and construct
36 new facilities as needed for outdoor recreation, nature
37 appreciation and interpretation, and natural resources protection.
38 The conservancy may undertake those projects by itself or in
39 conjunction with another local agency; however, the conservancy
40 shall provide overall coordination of those projects by setting

1 priorities for the projects and by ensuring a uniform approach to
2 projects. The conservancy may undertake those projects after 30
3 days' written notice to the legislative body of the local agency that
4 has jurisdiction in the area in which the conservancy proposes to
5 undertake that activity.

6 33844. (a) The conservancy may award grants to local public
7 agencies, state agencies, federal agencies, and nonprofit
8 organizations for the purposes of this division.

9 (b) A grant to a nonprofit organization for the acquisition of
10 real property or interests in real property shall be subject to all of
11 the following conditions:

12 (1) The purchase price of an interest in land acquired by the
13 nonprofit organization may not exceed fair market value as
14 established by an appraisal approved by the conservancy.

15 (2) The conservancy approves the terms under which the
16 interest in land is acquired.

17 (3) The interest in land acquired pursuant to a grant from the
18 conservancy may not be used as security for a debt incurred by the
19 nonprofit organization unless the conservancy approves the
20 transaction.

21 (4) The transfer of land acquired pursuant to a grant shall be
22 subject to the approval of the conservancy and the execution of an
23 agreement between the conservancy and the transferee sufficient
24 to protect the interests of the state.

25 (5) The state shall have a right of entry and power of
26 termination in and over all interests in real property acquired with
27 state funds, which may be exercised if an essential term or
28 condition of the grant is violated.

29 (6) If the existence of the nonprofit organization is terminated,
30 title to all interests in real property acquired with state funds shall
31 immediately vest in the state, except that, prior to that termination,
32 another public agency or nonprofit organization may receive title
33 to all or a portion of that interest in real property, by recording its
34 acceptance of title, together with the conservancy's approval, in
35 writing.

36 (c) A deed or other instrument of conveyance whereby real
37 property is acquired by a nonprofit organization pursuant to this
38 section shall be recorded and shall set forth the executory interest
39 or right of entry on the part of the state.



1 33845. (a) The Santa Ana River Conservancy Fund is hereby
2 created in the State Treasury. Moneys in the fund shall be
3 available, upon appropriation, for the purposes of this division.

4 (b) The fee revenue and all other revenue received pursuant to
5 this division shall be deposited in the fund.

6 (c) The conservancy shall administer funds appropriated to it,
7 and may expend those funds for capital improvements, land
8 acquisition, or support of the conservancy's operations, in
9 accordance with the purposes set forth in Section 33815. The
10 conservancy may also accept revenue, money, grants, goods, or
11 services contributed to it by a public agency, private entity, or
12 person and, upon receipt, may use the revenue, money, grants,
13 goods, or services for capital improvements, land acquisitions, or
14 support of the conservancy's operations, in accordance with the
15 purposes set forth in Section 33815.

16
17 CHAPTER 4. LIMITATIONS
18

19 33850. Nothing in this division shall be interpreted to grant
20 the board any regulatory or governing authority over an ordinance
21 or regulatory measure adopted by a city, county, or special district
22 that pertains to land use, water rights, or environmental quality.

23 (a) Notwithstanding any other provision of this division, the
24 conservancy may not take an action that does any of the following:

25 (1) Interferes or conflicts with the exercise of the powers or
26 duties of a watermaster, public agency, or other body or entity
27 responsible for groundwater or surface water management or
28 groundwater replenishment as designated or established pursuant
29 to an adjudication or statute.

30 (2) Interferes or conflicts with a provision of a judgment or
31 court order issued, or rule or regulation adopted, pursuant to an
32 adjudication affecting water or water management in the Santa
33 Ana River watershed and basin.

34 (3) Impedes or adversely impacts a previously duly adopted
35 flood control project, or a maintenance agreement to operate the
36 project.

37 (4) Results in the degradation of water quality, or interferes or
38 conflicts with one or more of the following:

39 (A) An action by a watermaster or public agency that is
40 authorized pursuant to statute.

(B) A water right or adjudication, including, but not limited to, an action relating to water conservation, groundwater recharge, conservation or storage of water or both, the pumping of groundwater, water treatment, the regulation of spreading, injection, pumping, storage, or the use of water from local sources, stormwater flows and runoff, or from imported or reclaimed water that is undertaken in connection with the management of the Santa Ana River or a branch, stream, fork, or tributary thereof, a groundwater basin, or groundwater resource.

(5) Interferes with, obstructs, hinders, or delays the exercise of a water right by the owner of a public water system, including, but not limited to, the construction, operation, maintenance, replacement, repair, location, or relocation of a well or water pumping, treatment, or storage facility, pipeline, or other facility, or property necessary or useful to the operation of the public water system.

(b) The conservancy shall provide written notice to every water association in the jurisdiction of the conservancy of a proposed action, policy, or project that may affect a water right or water delivery system at least 45 calendar days prior to the date set for approval of those matters by the conservancy.

(c) The conservancy shall consult with other conservancies within the Resources Agency prior to implementing a project pursuant to this division in which there may be a jurisdictional overlap between those conservancies. Each of those conservancies shall make its best effort to resolve issues regarding a project development that is carried out pursuant to this division in a mutually advantageous and environmentally beneficial manner. A dispute between the conservancies shall be referred to the Resources Agency for resolution.

(d) As used in this section, “adjudication” means a final judgment or order entered in a judicial proceeding adjudicating or affecting water rights, surface water management, or groundwater management.

CHAPTER 5. REPEAL

33860. (a) The conservancy may not implement Section 33845 until the Legislature appropriates funds necessary to implement this division, or until a bond act approved by the voters

1 of this state includes an allocation of funds for the purposes of this
2 division.

3 (b) The Legislature may not appropriate General Fund moneys
4 to implement this division.

5 (c) This division shall remain in effect only until January 1,
6 2011, and as of that date is repealed, unless a later enacted statute,
7 that is enacted before January 1, 2011, deletes or extends that date.

